

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE
Case No. 10-12653-bls

- - - - -x

In the Matter of:

TRICO MARINE SERVICE, INC., ET AL.,

Debtors.

- - - - -x

U.S. Bankruptcy Court
824 North Market Street
Wilmington, Delaware

October 1, 2010
12:01 PM

B E F O R E:
HON. BRENDAN L. SHANNON
U.S. BANKRUPTCY JUDGE

ECR OPERATOR: DANA MOORE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Debtors' Motion to Approve the Sale of Assets Free and Clear of
Liens, Claims, and Encumbrances

Debtors' Motion for Extension for Interim Order for DIP
Financing, with Amendments

Transcribed by: Dena Page

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S :

VINSON & ELKINS LLP

Attorneys for Debtors

BY: JOHN E. MITCHELL, ESQ.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

Attorneys for Debtors

BY: ROBERT J. DEHNEY, ESQ.

KASOWITZ BENSON TORRES & FRIEDMAN LLP

Attorneys for Official Committee of Creditors

BY: RICHARD F. CASHER, ESQ. (TELEPHONICALLY)

DANIEL A. FLIMAN, ESQ. (TELEPHONICALLY)

ANDREW K. GLENN, ESQ. (TELEPHONICALLY)

DAVID J. MARK, ESQ. (TELEPHONICALLY)

DAVID S. ROSNER, ESQ. (TELEPHONICALLY)

PACHULSKI STANG ZIEHL & JONES LLP

Attorneys for Official Committee of Creditors

BY: LAURA DAVIS JONES, ESQ.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BRACEWELL & GIULIANI LLP
Attorneys for Certain Second Lien Noteholders
BY: GREGORY W. NYE, ESQ.
KURT A. MAYR, ESQ. (TELEPHONICALLY)
SOHAM D. NAIK, ESQ. (TELEPHONICALLY)

FOX ROTHSCHILD LLP
Attorneys for Nordea Bank
BY: ERIC M. SUTTY, ESQ.

LANDIS RATH & COBB LLP
Attorneys for Certain Second Lien Noteholders
BY: KERRI MUMFORD, ESQ.

LATHAM & WATKINS LLP
Attorneys for Tennenbaum
BY: ROBERT A. KLYMAN, ESQ. (TELEPHONICALLY)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MCCARTER & ENGLISH, LLP

Attorneys for General Electric Capital Corporation

BY: LISA S. BONSTALL, ESQ. (TELEPHONICALLY)

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

Attorneys for Caspian Capital

BY: OKSANA LASHKO, ESQ. (TELEPHONICALLY)

REED SMITH LLP

Attorneys for BoNY, Mellon as Indenture Trustee

BY: KURT F. GWYNNE, ESQ.

J. CORY FALGOWSKI, ESQ.

WHITE & CASE LLP

Attorneys for Nordea Bank Finland PLC

BY: SCOTT GRIESSMAN, ESQ.

RADEK PAWLOWSKI, ESQ. (TELEPHONICALLY)

1
2 YOUNG CONWAY STARGATT & TAYLOR, LLP

3 Attorneys for Tennenbaum

4 BY: MICHAEL R. NESTOR, ESQ.

5
6
7 U.S. DEPARTMENT OF JUSTICE - CIVIL DIVISION

8 Attorneys for U.S. Department of Transportation
9 (Maritime)

10 BY: SETH SHAPIRO, ESQ. (TELEPHONICALLY)

11
12
13 ALSO PRESENT TELEPHONICALLY:

14 JOSEPH CHANG, Gleacher & Company
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

THE CLERK: All rise.

THE COURT: Please be seated. Apologies for the delay, counsel.

Mr. Mitchell.

MR. MITCHELL: Good morning, Your Honor. I guess I should ask you how you're doing. We've heard the bad news.

THE COURT: It's actually all better.

MR. MITCHELL: Well, sorry to hear that. So hopefully everything --

THE COURT: My wife wondered why I bought a shop-vac. Now I feel vindicated.

MR. MITCHELL: Didn't know if Your Honor needed to buy a boat, perhaps.

THE COURT: No, not yet, anyway.

MR. MITCHELL: We've got one for sale.

THE COURT: Build an ark.

MR. MITCHELL: Your Honor, we're here on two matters, and we appreciate you --

THE COURT: Sure.

MR. MITCHELL: -- hearing us today.

THE COURT: Yeah, that's fine.

MR. MITCHELL: One is the debtors' motion to sell, pursuant to Section 363, two of its vessels. The other is the continued hearing on the final hearing on the DIP financing and

1 use of cash collateral.

2 THE COURT: Sure. Why don't we deal with the sale
3 motion; then we'll talk about scheduling issues on the cash
4 collateral.

5 MR. MITCHELL: Certainly, Your Honor.

6 THE COURT: Okay.

7 MR. MITCHELL: If I might just give you an update on
8 where we are. As the Court so directed, if we had an
9 agreement, you'd be willing to enter an order on September
10 30th, yesterday, but if it's contested, it can be kicked at a
11 minimum until October 6th and perhaps later. We have an
12 agreement in principle, Your Honor --

13 THE COURT: Okay.

14 MR. MITCHELL: -- with all of the parties, but it's
15 some of the fine-tuning that we need to go through in order to
16 get there. And so we're not prepared to present an order
17 today, and perhaps I can just take a moment to tell you where
18 we are.

19 THE COURT: Sure.

20 MR. MITCHELL: And then I know counsel for Bank of New
21 York would like to address the Court about this, as well.

22 THE COURT: That sounds fine.

23 MR. MITCHELL: Basically, in concept, Your Honor, with
24 respect to the actual sale of both the Hunt -- excuse me, the
25 Truckee and the Spirit River, the parties generally agree sales

1 price, terms, things of this nature in an attempt to get the
2 sale closed next week. However, there's some details that need
3 to work out, such as whether or not a pre -- a make-whole
4 premium is due under the notes that are secured by the assets,
5 as well as interest which may or may not be payable due to a --
6 basically due to a redemption period and notice period that has
7 to be given to the noteholders.

8 THE COURT: Are those issues that actually need to be
9 sorted out in advance of the sale? I mean, those seem to be
10 proceeds issues.

11 MR. MITCHELL: They are, Your Honor, and what we're
12 trying to work out right now is just the structure for going
13 ahead --

14 THE COURT: Got it.

15 MR. MITCHELL: -- and getting the sale through, who
16 will hold the escrow, how will that be determined, walking the
17 committee through some questions. And we have an interesting
18 situation where basically, you've got noteholders for which the
19 Bank of New York is the indenture trustee. They have unsecured
20 claims. However, those notes are guaranteed by MARAD and they
21 have a secured game on their guarantee. So we're working
22 through those issues, coupled with we also need MARAD's consent
23 to actually sell the ship --

24 THE COURT: Right.

25 MR. MITCHELL: -- to a Nigerian buyer and all that's

1 going along. Bank of New York did not get counsel retained
2 until last night, but we're not throwing stones only because
3 there's a question whether or not they had notice of the sale.
4 No one's threatening to push it off. We're working hard with
5 their counsel to bring them up to speed. We'll work over the
6 weekend; hopefully we can get all this finalized and present an
7 agreed order to the Court. And we need to bring the committee
8 in the loop on some of these other issues we're working
9 through.

10 THE COURT: Mr. Gwynne's a smart guy. He can move
11 quickly.

12 MR. MITCHELL: He can move quickly. I understand he
13 pulled an all-nighter. So with that being said, we would like
14 to just advise the Court, that's where we are. We hope to be
15 able to get an agreed order worked out over the weekend and
16 perhaps submit one on Monday --

17 THE COURT: Okay.

18 MR. MITCHELL: -- if we might.

19 THE COURT: I understand.

20 Mr. Gwynne?

21 MR. GWYNNE: Good afternoon, Your Honor. Kurt Gwynne
22 from Reed Smith on behalf of Bank of New York Mellon as
23 indenture trustee. Your Honor, at my weight, there's not many
24 things that people accuse me of doing quickly, so I do
25 appreciate that.

1 Bank of New York wasn't on the service list, but like
2 counsel said, we're getting beyond that. They have been
3 incredibly helpful through the night, debtors' counsel, in
4 helping us get up to speed, so there was just transaction
5 documents to read, and I actually wasn't in Delaware yesterday,
6 so coming back with the rain and all ended up making it a
7 little bit more difficult.

8 We do have some issues, but I know Your Honor's
9 already had a rough morning; I don't want to make it any worse.
10 I think we're going to be able to work them out. We have been
11 discussing it, and like I said, their counsel's been very
12 accommodating. The committee, obviously, has to agree too,
13 perhaps the second lien holders, and anybody else involved.
14 All I wanted to say is if we don't work them out, there is a
15 possibility we might need to have the opportunity to raise
16 those issues with the Court, but I'm hoping that that's not the
17 case.

18 THE COURT: Okay, well, let me make a suggestion.
19 Anyone else wish to be heard?

20 MR. SHAPIRO: Yes, Your Honor. This is Seth Shapiro
21 on the telephone with the United States Department of Justice.

22 THE COURT: Yes, sir.

23 MR. SHAPIRO: I represent the Department of
24 Transportation and the Maritime Administration. I wanted to
25 advise the Court and the parties, as well, that we will work

1 with the indenture trustee and debtors' counsel to try to work
2 out these issues, and also, that we are -- MARAD is moving as
3 quickly as possible to get the regulatory approval needed.
4 Normally, that process takes two or three weeks, but given the
5 circumstances in this case, we are very optimistic that a
6 decision will be rendered next week.

7 THE COURT: Okay.

8 MR. GWYNNE: And Your Honor, I didn't realize Mr.
9 Shapiro was on the phone, but he was also extremely helpful
10 yesterday, in fact, in talking to the client as well as me,
11 helping us get up to speed.

12 THE COURT: Okay, well, that sounds fine.

13 MR. GWYNNE: Thank you.

14 THE COURT: Let me make a suggestion. Obviously, I
15 had scheduled the hearing in the hope -- or, based on the
16 debtors' hope that they might have a consensual sale, and
17 frankly, it sounds like you're pretty close to that. Most of
18 these issues seem to be treatment of proceeds, and no issue
19 seems to be raised with the wisdom of the sale or the fairness
20 of the sale. So I'm more than happy to allow the process to
21 play itself out.

22 And I have had an opportunity to review the motion. I
23 have no issues with respect to the relief that's requested, and
24 I don't make that comment in derogation of anybody's rights
25 that are currently being negotiated. It seems to me that these

1 are issues that need to be sorted out between and among the
2 parties, and it makes a lot of sense, and hopefully, people
3 will get there. And I understand and appreciate the urgency
4 that the debtor has.

5 I don't see a reason, if there is consensus, to hold
6 on to this until our next scheduled hearing which is some time
7 next week, right?

8 MR. MITCHELL: Wednesday, Your Honor.

9 THE COURT: Wednesday. If there is consensus, I would
10 entertain this on a certificate of counsel, and you need to
11 tell us it's coming because I would assume that you would want
12 it docketed and the registered -- or, the formal copy of it for
13 closing. But I would entertain it. And I guess I'd make one
14 other suggestion. If I can be of assistance on Monday, if
15 there's an issue or a hiccup or somebody needs a measure of
16 comfort about how the process will work -- and that actually
17 seems to me to be something that the trustee may want -- that,
18 if something's happening with proceeds, trustees generally
19 don't want to go out on a limb for anybody, so if there's an
20 issue that you need to raise with the Court, you'll be able to
21 get it on the phone. All right?

22 MR. MITCHELL: Very good.

23 THE COURT: I mean, I'm not going to hear it on a
24 contested basis, but I can imagine treatment of proceeds is
25 something that somebody may want at least to apprise the Court

1 and that would be fine and I would do that by phone. Okay?

2 MR. MITCHELL: Thank you, Your Honor.

3 THE COURT: All right. So that's fine. I think we
4 know where, then, the sale motion is.

5 MR. MITCHELL: Thank you, Your Honor.

6 THE COURT: Yeah.

7 MR. MITCHELL: The other matter before the Court today
8 is the continued hearing on the motion for approval of final
9 DIP financing.

10 THE COURT: Right.

11 MR. MITCHELL: Your Honor, we're here today to ask
12 that the Court reset this for October 20th. And we have an
13 agreement to actually extend the deadline to have a final
14 hearing and actually have a final order entered until October
15 20th.

16 THE COURT: Okay.

17 MR. MITCHELL: We've been working very hard over the
18 last, really, since we were before you a week ago -- it seems
19 like a month ago -- to try to bring to resolution the issues
20 between all the various constituencies, and while we've worked
21 real hard, we're still somewhat far apart. So the parties got
22 together and, just a few minutes ago, were able to agree on the
23 terms of an extension of the interim order through October 20.
24 Basically, it's an extension of the deadline which is currently
25 set at October 1 to get a final order entered. We're pushing

1 that out to October 20 by agreement, Your Honor. Now,
2 generally, all the terms of the interim order will stay the
3 same --

4 THE COURT: Right.

5 MR. MITCHELL: -- and will continue. However, there
6 were some terms that were negotiated and have been agreed to by
7 all the parties. I was just going to read through with the
8 Court. One, we're paying an extension fee, Your Honor, the
9 debtor is, of about 38,000 dollars, a little bit more than
10 that.

11 THE COURT: Okay.

12 MR. MITCHELL: Two, if the Court will recall, we
13 approved what we call "AKO" (ph.) financing for our nondebtor
14 subsidiaries and there were payments that were to be made into
15 the estate. We've agreed, basically, that Trico Enterprise to
16 have those payments initiated today to get into the estate. It
17 may take a couple days to get in, but we would initiate that,
18 and I believe that's already happened.

19 THE COURT: Okay.

20 MR. MITCHELL: Third, Your Honor, I can't go into
21 specifics with respect to names or the vessels themselves, but
22 there's a deadline of October 12th to have some letters of
23 intent or letters of interest --

24 THE COURT: For other vessels?

25 MR. MITCHELL: -- executed for a few of the vessels.

1 THE COURT: Okay.

2 MR. MITCHELL: Those have been redacted. When you see
3 the form of order and the exhibits, Your Honor, we've redacted
4 the names for obvious reasons.

5 THE COURT: I understand. That makes sense.

6 MR. MITCHELL: Thank you, Your Honor. I'm happy to
7 run down and hand you the note or something, if you like.

8 And fourth, Your Honor, there is an agreement to --
9 there was a proposed first amendment to the DIP credit
10 facility. We talked about it at the hearing a week ago; the
11 committee had an objection to it or at least wanted to review
12 the terms. Part of this, we've agreed to have the first
13 amendment to the DIP credit facility go into effect, and then
14 we're memorializing this agreement today with a second
15 amendment, so the order we're going to present to you will have
16 a first amendment and second amendment to the DIP credit
17 facility go into effect. However, the DIP credit facility,
18 though, continues to be approved pursuant to the interim order
19 subject to any of the agreements we've rolled in that I've just
20 announced today.

21 Your Honor, I do have a form of order with the two
22 forms of amendments, if I may approach.

23 THE COURT: That sounds fine.

24 MR. MITCHELL: Oh, that's right. One more point. The
25 committee may want to clarify this, too, Your Honor. We also

1 pushed out the committee's standing. The committee had
2 negotiated an ability to review liens and claims against the
3 lenders as part of the final order, which isn't entered yet.
4 And so Tennenbaum and the committee have agreed to push their
5 period to get a motion on file, seek standing to pursue claims,
6 out to, I believe, December 1st. And that term is rolled into
7 the order because under the current interim order, it was --
8 the time period would begin to run from the formation of the
9 committee, as opposed to --

10 THE COURT: Right.

11 MR. MITCHELL: -- entry of the final order; we don't'
12 have one.

13 THE COURT: Sure.

14 MR. MITCHELL: So they've negotiated an extension of
15 that time period.

16 THE COURT: Okay, well, that makes sense. I
17 understand that.

18 MR. MITCHELL: May I approach, Your Honor?

19 THE COURT: Sure.

20 Okay, does anyone else wish to be heard regarding the
21 interim order?

22 MS. BONSALE: Your Honor, it's Lisa Bonsall from
23 McCarter & English for GECC. We had not been a party to any of
24 these negotiations or seen the form of order, but it's my
25 understanding that GECC's objection would be carried without

1 any prejudice.

2 MR. MITCHELL: That is correct, Your Honor.

3 THE COURT: Very good. Okay.

4 All right, I have had a chance just to flip through
5 this, but I have followed carefully counsel's representations
6 with respect to the modifications, and again, they seem to me
7 to be consistent with basically extending the existing deal
8 going forward. So I believe that the order is appropriate and
9 well-founded, and I will issue the order. The request is for
10 an adjournment to the 20th of October. And we have given you a
11 time of 1:30 in the afternoon on the 20th, is that right?

12 Okay.

13 Let me make a couple observations. First is,
14 obviously, you've got that time. It also seems to me that,
15 just as an editorial comment that, an additional three weeks,
16 not simply for purposes of negotiations, but frankly to give
17 parties a, you know, maybe a little bit more sense of where the
18 case is heading, may shed some light on positions on this issue
19 because part of what I heard, particularly from Mr. Rosner
20 during the argument was, we're kind of flying blind. We're a
21 few weeks into this and we're concerned about the impact of it,
22 and I understood the response on connection with that. But at
23 least it would seem to me, just as a general proposition,
24 perhaps further development, further becoming informed may shed
25 some light on that. May not, and then I'll conduct the

1 hearing.

2 One other observation is I've got you scheduled for
3 the afternoon. I understand this expires on the 20th, so I
4 presume that I will need to rule and dispose of it on the 20th.
5 So I think there have been some discussion about whether the
6 parties could proceed on stipulated facts. That would
7 obviously be ideal. In the absence of that, my suggestion
8 would be -- and some of you have been through this with me --
9 that if there's going to be live witnesses, that direct
10 testimony be presented by affidavit at an agreed time in
11 advance. And then what I usually do is give you -- you can put
12 your witness on. I'll give you a minute or two to get them
13 comfortable, ask them a few questions, but otherwise, their
14 testimony's in and we proceed directly to cross. I find, in my
15 experience, that really -- one, it helps me understand the case
16 and the testimony, and two, it frankly makes the cross-
17 examination a lot more efficient because counsel's fully able
18 to prepare their examination rather than just trying to do it
19 on the fly.

20 Those are a couple observations, but I'm kind of in
21 your hands in that regard, especially as we get closer and
22 closer to the hearing. Okay?

23 All right. I've signed this order. We'll have this
24 on the docket this morning. Again, with respect to the sale
25 issues, we'll wait to be guided by counsel. And otherwise, we

1 should be all set. Anything further?

2 MR. MITCHELL: Nothing further.

3 THE COURT: Very well. We'll stand in recess. Thank
4 you very much, counsel. Have a good weekend.

5 IN UNISON: Thank you, Your Honor.

6 (Whereupon these proceedings were concluded at 12:14 PM)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

RULINGS

	Page	Line
--	------	------

Debtors' Motion for	18	9
Extension for Interim		
Order for DIP Financing,		
with Amendments Approved		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T I O N

I, Dena Page, certify that the foregoing transcript is a true
and accurate record of the proceedings.

DENA PAGE

Veritext
200 Old Country Road
Suite 580
Mineola, NY 11501

Date: October 12, 2010

UNITED STATES BANKRUPTCY COURT
District of Delaware

In Re:

Trico Marine Services, Inc., et al.,
10001 Woodloch Forest Drive
Suite 610
The Woodlands, TX 77380
EIN: 72-1252405

Chapter: 11

Case No.: 10-12653-BLS

NOTICE OF FILING OF TRANSCRIPT AND OF DEADLINES RELATED TO RESTRICTION AND REDACTION

A transcript of the proceeding held on 10/1/10 was filed on 10/13/10 . The following deadlines apply:

The parties have 7 days to file with the court a *Notice of Intent to Request Redaction* of this transcript. The deadline for filing a *request for redaction* is 11/3/10 .

If a request for redaction is filed, the redacted transcript is due 11/15/10 .

If no such notice is filed, the transcript may be made available for remote electronic access upon expiration of the restriction period, which is 1/11/11 unless extended by court order.

To review the transcript for redaction purposes, you may purchase a copy from the transcriber (see docket for Transcriber's information) or you may view the document at the clerk's office public terminal.



Clerk of Court

Date: 10/13/10

(ntc)

Notice Recipients

District/Off: 0311-1

User: Leslie

Date Created: 10/13/2010

Case: 10-12653-BLS

Form ID: ntcBK

Total: 14

Recipients of Notice of Electronic Filing:

ust	United States Trustee	USTPREGION03.WL.ECF@USDOJ.GOV
aty	L. John N. Bird	jbird@mnat.com
aty	Steven M. Abramowitz	sabramowitz@velaw.com

TOTAL: 3

Recipients submitted to the BNC (Bankruptcy Noticing Center):

db	Trico Marine Services, Inc., et al., 77380	10001 Woodloch Forest Drive	Suite 610	The Woodlands, TX
ust	David L. Buchbinder	Office of the U.S. Trustee	J. Caleb Boggs Federal Building	Suite
	2207	Wilmington, DE 19801		
aty	Andrew R. Remming	Morris, Nichols, Arsht & Tunnell	1201 North Market Street	P.O. Box
	1347	Wilmington, DE 19899-1347		
aty	Jim Day	Vinson & Elkins LLP	666 Fifth Avenue	26th Floor New York, NY
aty	Joel H Levitin	Cahill Gordon & Reindel LLP	80 Pine Street	New York, NY 10005
aty	John E Mitchell	Vinson & Elkins LLP	Trammell Crow Center	2001 Ross Avenue Suite
	3700	Dallas, TX 75201-2975		
aty	John Paul K Napier	Vinson & Elkins LLP	Trammell Crow Center	Suite 3700 2001 Ross
	Avenue	Dallas, TX 75201-2975		
aty	Kevin Burke	Cahill Gordon & Reindel LLP	80 Pine St.	New York, NY 10005
aty	Maya Peleg	Cahill Gordon & Reindel LLP	Eighty Pine Street	New York, NY 10005
aty	Richard A. Stieglitz Jr.	Cahill Gordon & Reindel LLP	Eighty Pine Street	New York, NY 10005
aty	Robert J. Dehney	Morris, Nichols, Arsht & Tunnell	1201 N. Market Street	P. O. Box
	1347	Wilmington, DE 19899-1347		

TOTAL: 11